

**Draft Council Motion for Item C-4 BSAI Crab Rationalization  
December 10, 2001**

**Boldface and strikeouts show changes from the Council Motion of the June 10, 2001.**

**C-4 BSAI Crab Rationalization**

The Council adopted elements and options for analysis of alternative rationalization programs for the BSAI crab fisheries. The alternative models under consideration include several IFQ-style and cooperative-style rationalization models that may be structured as either harvester-only or harvester-processor programs depending on the Council's choice of options. Additional features may be included to address coastal community **and skipper/crew** issues. The following elements and options apply to any rationalization model under consideration as applicable:

1. Harvesting Sector Elements

1.1 Crab fisheries included in the program are the following fisheries subject to the Federal FMP for BSAI:

Bristol Bay red king  
Brown king (AI Golden king)  
Adak red king  
Dutch Harbor red king  
Pribilof Islands blue king  
St. Matthew blue king  
Pribilof Islands red king  
Opilio (EBS snow crab)  
E AI tanner  
W AI tanner  
Bairdi (EBS tanner)

**Other FMP species not included here are discussed under item L at the end of the alternatives section.**

1.2 Persons eligible to receive an initial allocation of QS must be:

**Option 1. Any person that holds a valid, permanent, fully transferrable LLP license; or**

**Option 2 A person, defined as a U.S. citizen that owns a MarAd certified and/or USCG documented BSAI crab vessel that: (i) was used to satisfy the General Qualification Period (GQP) and Endorsement Qualification Period (EQP) landings requirements of the License Limitation Program (LLP), and (ii) either was used to satisfy the Recent Participation Period (RPP) landings requirement of Amendment 10 or meets the exemption requirements of Amendment 10.**

**Suboption: A person who has purchased an LLP, with GQP, EQP, and RRP qualifications to remain in a fishery is eligible to obtain a distribution of QS on the history of either the vessel on which the LLP is based or on which the LLP is used, NOT both.**

1.3 Categories of QS/IFQs

1.3.1 Crab Fishery Categories - QS/IFQs will be assigned to one of the crab fisheries included in the program as identified in paragraph 1.1, except Dutch Harbor red king, E AI tanner, and W AI tanner. (Note also that the Adak red king crab fishery has been closed for several years.)

1.3.1.1 Brown king crab (AI golden king crab) option.

Option 1. Split into two categories: Dutch Harbor brown king crab and Western Aleutian Islands brown king crab

- 1.3.2 Harvesting sector categories - QS/IFQs will be assigned to one of the following harvesting sector categories:
- (a) catcher vessel (CV), or
  - (b) catcher/processor (CP)
- 1.3.3 Processor delivery categories - QS/IFQs for the CV sector may be assigned to processor delivery categories if processor quota shares (PQs) are included in the program. Two processor delivery categories (options for the percentage split between class A/B shares for initially allocated QS appear under the Processing Sector Elements):
- (a) Class A - allow deliveries only to processors with unused PQs
  - (b) Class B - allow deliveries to any processor
- 1.3.4 Regional Categories - QS/IFQs for the CV sector may be assigned to regional categories if Regionalization is included in the program. Two regions would be defined as follows (see Regionalization Elements for a more detailed description of the regions):
- (a) North Region - All areas on the Bering Sea north of 56° 20' N. Latitude.
  - (b) South Region - All areas **on the Bering Sea** south of 56° 20' N. Latitude **and on the Gulf of Alaska**

1.4 Initial allocation of QS

1.4.1. Calculation of initial QS distribution will be based on legal landings excluding deadloss.

(a) Calculation of QS distribution. The calculation is to be done, on a vessel-by-vessel basis, as a percent of the total catch, year-by-year during the qualifying period. Then the sum of the yearly percentages, on a fishery-by-fishery basis, is to be divided by the number of qualifying years included in the qualifying period on a fishery-by-fishery basis to derive a vessel's QS.

(b) Basis for QS distribution.

**Option 1.** For eligibility criteria in paragraph 1.2, Option 1, the distribution of QS to the LLP license holder shall be based on the catch history of the vessel on which the LLP license is based and shall be on a fishery-by-fishery basis. The underlying principle of this program is one history per vessel. However, the initial allocation of quota share will allow stacking or combining of valid, permanent, fully transferable LLP licenses and of histories of vessels as permitted under the LLP.

**Option 2.** For eligibility criteria in paragraph 1.2, the distribution of QS to the LLP license holder shall be based on the catch history of the vessel (including replacement vessels) on which the LLP license and endorsements are based and shall be on a fishery by fishery basis. The catch history upon which the fishing quota shares are derived, must have been earned on vessels that are currently MarAd certified and/or USCG documented fishing vessels. The initial allocation of quota share will allow stacking or combining of LLPs and histories that satisfied (i) the GQP and EQP landings requirements of the LLP, and (ii) either the RPP landings requirement, or one or more of the specific exemption requirements of Amendment 10 to the LLP.

**Suboption:** Persons who have an purchased LLP, with GQP, EQP, and RPP qualifications to remain in a fishery may obtain a distribution of QS on the history of either the vessel on which the LLP is based or on which the LLP is used, NOT both.

1.4.2 Qualifying Periods for Determination of the QS Distribution:

- 1.4.2.1 Opilio (EBS snow crab)
- Option 1. 1994 - 1999 (6 seasons)
    - (a) Best 5 seasons
  - Option 2. 1992 - 1999 (8 seasons)
    - (a) Best 7 seasons

Option 3. 1995 - 1999 (5 seasons)

- (a) All seasons
- (b) Best 4 seasons

Option 4. 1996 - 2000 (5 seasons)

- (a) Best 4 seasons

1.4.2.2 Bristol Bay red king crab

Option 1. 1993 - 1999 (5 seasons, closed in '94 and '95)

- (a) All seasons
- (b) Best 4 seasons

Option 2. 1992 - 1999 (6 seasons)

- (a) All seasons
- (b) Best 5 seasons

Option 3. 1996 - 2000 (5 seasons)

- (a) Best 4 seasons

1.4.2.3 Bairdi (EBS tanner crab)

Option 1. 1992 - 1996 (5 seasons)

- (a) All seasons
- (b) Best 4 seasons

Option 2. 91/92\* - 1996 (6 seasons)

- (a) Best 5 seasons

**Option 3. Based on a 50/50 combination of Bristol Bay red king crab and opilio harvests.**

\*The biological season extended over a calendar year

1.4.2.4 Pribilofs red king crab

Option 1. 1993 - 1998

- (a) Best 4 seasons

Option 2. 1994 - 1998

- (a) All seasons
- (b) Drop one season<sup>1</sup>

1.4.2.5 Pribilofs blue king crab

Option 1. 1993 - 1998

- (a) Best 4 seasons

Option 2. 1994 - 1998

- (a) All seasons
- (b) Drop one season

1.4.2.6 St. Matthew blue king crab

Option 1. 1993 - 1998

- (a) Best 4 seasons

Option 2. 1994 - 1998

- (a) All seasons
- (b) Drop one season

1.4.2.7 Brown king crab (based on biological season)

*(Options apply to both Dutch Harbor and western Aleutian Island brown king crab)*

Option 1. 92/93 - 98/99 (7 seasons)

- (a) All seasons

---

<sup>1</sup> All potential recipients would drop their worst season during the qualifying period.

- (b) Drop one season
- Option 2. 95/96 - 98/99 (4 seasons)
  - (a) All seasons
  - (b) Drop one season
- Option 3. 96/97 - 98/99 (3 seasons)
  - (a) All seasons
  - (b) Drop one season
- Option 4. 96/97 - 2000/01 (5 seasons)
  - (a) Best 4 seasons

Suboption: Award each initial recipient QS based on:

- (a) GHL split Dutch Harbor/western Aleutian Island brown king crab
- (b) historical participation in each region.

1.4.2.8 Adak Red King Crab

- Option 1. 1992 - **1996**
  - (a) All seasons
  - (b) Best 2 seasons
  - (c) **Not appropriate for rationalization**

1.5 Annual allocation of IFQs:

1.5.1 Basis for calculating IFQs:

- Option 1. GHL
- Option 2. Convert GHL to a TAC and use the TAC as the basis.

1.6 Transferability and Restrictions on Ownership of QS/IFQs:

1.6.1 Persons eligible to receive QS/IFQs by transfer:

- Option 1.
    - (a) All persons or entities eligible to document a U.S. fishing vessel are eligible to own or purchase harvester QS and IFQs
    - (b) Persons or entities with 75% U.S. ownership
- Suboption: Initial recipients of harvesting quota share are grandfathered

- Option 2. US citizens who have had at least (3 options):
    - a. 30 days of sea time\*
    - b. 150 days of sea time\*
    - c. 365 days of sea time\*
- Suboption: Initial recipients of harvesting quota share are grandfathered

- Option 4. Entities that have a U.S. citizen with 20% or more ownership and at least
    - a. 30 days of sea time\*
    - b. 150 days of sea time\*
    - c. 365 days of sea time\*
- Suboption: Initial recipients of harvesting quota share are grandfathered

\*Definition of sea time (3 options):

- Option 1. Sea time in any of the US commercial fisheries in a harvesting capacity
- Option 2. Sea time in a harvesting capacity in any commercial fishery of the State of Alaska or the Alaska EEZ
- Option 3. Sea time in any BSAI crab fishery

1.6.2 Leasing of QS (Leasing is equivalent to the sale of IFQs without the accompanying QS.)

Leasing is defined as the use of IFQ on vessel which QS owner holds less than 5-50% ownership of vessel **or on a vessel on which the owner of the underlying QS is present:**

Option 1. Leasing QS is allowed with no restrictions

Option 2. Leasing QS is not allowed

**Option 3. A brown king crab QS holder may annually swap with any other brown king crab QS holder, on a pound for pound basis, IFQ in one district for IFQ in the other district.**

1.6.3 Separate and distinct QS Ownership Caps - apply to all harvesting QS categories pertaining to a given crab fishery with the following provisions:

- (a) initial issues that exceed the ownership cap would be grandfathered;
- (b) apply individually and collectively to all QS holders in each crab fishery;
- (c) percentage-cap options for the Bristol Bay red king crab, Opilio, Bairdi, Pribilofs red king crab, Pribilofs blue king crab and St. Matthew blue king crab fisheries (a different percentage cap may be chosen for each fishery):
  - Option 1. 1 % of the total QS pool for the fishery
  - Option 2. 5% of the total QS pool for the fishery
  - Option 3. 8% of the total QS pool for the fishery
- (d) percentage-cap ranging from **10%-40%** for the Dutch Harbor and western Aleutian Island brown king crab (a different percentage cap may be chosen for each fishery or may be applied to the combined fisheries if not categorized separately).
- (e) percentage-cap ranging from 10%-30% for Adak red king crab (if QS for this fishery are issued).
- (f) **in the opilio fishery, the cap can be reduced to 0.5% of the total QS pool in the event the GHF increases to over 400 million pounds (with those over this cap prior to the reduction grandfathered).**

1.6.4 Controls on vertical integration (ownership of harvester QS by processors):

Option 1: No controls

Option 2: **A cap of 1%, 5% or 8%, with grandfathering of initial allocations**

Option 3: An entity that owns PQs may not own harvester QS in addition to those harvester QS that were issued to the PQ holder in the initial allocation.

**Vertical integration ownership caps on processors should be analyzed using both the individual and collective rule and the threshold ownership rule using 10%, 25%, and 50% minimum ownership standards for inclusion in calculating the cap. PQS ownership caps are at the company level.**

1.7 Use of IFQs

1.7.1 Use by harvesting sectors - IFQs must be used in accordance with the privileges defined for the associated QS category. The following provisions also apply:

- (a) "A" class CV-IFQs may be processed by either a shoreside processor or a catcher/processor so long as sufficient processor shares are held by the processor.
- (b) "B" class CV-IFQ's may be processed by either a shoreside processor or a catcher/processor.
- (c) "A" or "B" class CV-QS initially issued to a catcher/processor shall not be regionally or community designated.
- (d) "A" or "B" class CV-QS purchased or obtained by catcher/processers shall retain their regional or community designation.
- (e) **No allowance of the use of purchased class B share IFQ crab on catcher processor vessels.**

1.7.2 Catcher/Processor shares:

1.7.2.1 Catcher/Processors shall be granted "A" and "B" class CV-QS in the same manner as catcher vessels.

1.7.2.2 Catcher/Processors shall be granted PQ's based on their processing history.

1.7.2.3 Allowances for Catcher/Processors:

Option 1. Catcher/Processors are prohibited from purchasing additional PQs from shore based processors but are free to acquire PQs from other Catcher/Processors.

Option 2. Catcher/Processors shall be allowed to purchase additional PQs from shore based processors as long as the shares are processed within 3 miles of shore in the designated region ~~or community~~.

Option 3. Catcher/Processors may purchase additional CV-QS but cannot process unless sufficient unused IPQs are held.

Option 4. Catcher/Processors may sell processed or unprocessed crab. Depending on the type of model (one-pie, two-pie, etc.), unprocessed crab may be delivered to:

- (a) processors that hold unused IPQs, or
- (b) any processor

**Option 5. Catcher processors that processed crab for any BSAI crab fishery during 1998 or 1999 will be included in the IFQ program.**

1.7.2.4 Transfers to shore-based processors:

- (a) Catcher/Processors shall be allowed to sell PQ's to shore based processors.
- (b) When CP-PQ shares without a regional designation are sold to a shore based processor, the shares become designated by region.

1.7.3 Catch accounting under IFQs - All landings including deadloss will be counted against IFQs. Options for treatment of incidental catch are as follows:

Option 1. No discards of legal crab will be allowed and sufficient IFQs for legal crab must be available.

Option 2. No discards of "marketable" crab will be allowed for opilio crab and sufficient IFQs for "marketable" crab must be available. (Legal size for opilio is 3.1 inches but the industry standard is 4 inches.)

Option 3. No discards of opilio crab with a carapace of 4 inches or greater in width.

Option 4. Discards of incidentally caught crab will be allowed. (This option would allow, for example, incidental catch of bairdi crab in a red king crab fishery to be discarded without counting against bairdi IFQs.)

1.7.4 Use caps on IFQs harvested on any given vessel:

Option 1.

**a) fleet average percent of the catch**

**b) highest single vessel percentage of the catch**

**Time periods considered for determining the catch shall be:**

**a) the IFQ qualifying years;**

**b) the IFQ qualifying years plus the years from the end of the qualifying period through the year of the final Council action.**

Option 2. No use caps

1.8 Other Optional Provisions

1.8.1 Options for skippers and crews members:

**Option 1.**

**I. Percentage to Captains and/or crew:**

A range of percentages for initial allocation from 0% to 20% should be analyzed.  
(i.e. 0%, 10%, 20%)

A crewman is defined as a US citizen who held a commercial fishing landing permit or crew license during the qualifying period.

**II. Species specific:**

As with vessels.

**III. Eligibility:**

(a) Determined on a fishery by fishery basis by 1) having at least one landing in the qualifying years used by the vessels and 2) having recent participation in the fishery as defined by at least one landing per year in the fishery in the last two years prior to adoption of a rationalization program by the Council.

(b) As a second option, eligibility could be determined by a point system modeled after that used by the State of Alaska in SE Alaska for limited entry in the Dungeness, King, and Tanner crab fisheries there.

(c) Eligibility will include:

1. Skippers only
2. All crew

**IV. Qualification period:**

As with vessels.

**V. Distribution per Captain:**

- i) Shares based on landings (personal catch history based on ADF&G fish tickets).
- ii) Shares distributed equally among qualified participants.
- iii) distribution based on a point system
- iv) A mix of one or more of the above, with a range of 0-50% distributed equally and the balance based on landings and/or points

**VI. Distribution for All Crew:**

- i) Shares distributed equally among qualified participants.
- ii) distribution based on a point system
- iii) A mix of one or more of the above, with a range of 0-50% distributed equally and the balance based on points

**VI. Transferability criteria:**

- (1) Sale of QS
  - a) QS is fully transferable
  - b) QS is only transferable to active participants
- (2) IFQ leasing
  - a) IFQ is fully leasable
  - b) IFQ is only leasable to active participants
  - c) IFQ is leasable to smaller, distant fisheries (i.e. St. Mathew, Pribilof and Adak King Crab)
  - d) No leasing of IFQ

Use it or lose it would apply to all skipper/crew QS, with a one year hardship provision. If the skipper/crew QS holder does not maintain active status in the fishery they would be required to transfer their QS to another active participant in the fishery.

An active participant is defined by participation in at least one delivery in the subject crab fishery in the last year as evidenced by ADF&G fish ticket or affidavit from the vessel owner.

**VII. Skipper/Crew on Board requirements**

- a) **No onboard requirement for skipper/crew with QS**
- b) **Initial issues of QS would not be required to be onboard the vessel, subsequent tranferees would be required to be onboard the vessel when harvesting QS.**
- c) **Requirement for skipper/crew to be onboard vessel when harvesting QS.**

**Option 2: First Right of Refusal on Quota Share Transfers**

- (1) **A range of 0-20% of initially issued QS would be designated as crew shares, these shares would remain as a separate class of QS. Transfer of initially issued QS must include transfer of 0-20% crew shares for which there will be a first right of refusal for eligible crew to buy. The owner of the QS being offered for sale would have to give notice to NMFS RAM division of the impending sale. RAM in turn could then notify the fleet of the available QS. After this initial transfer crew QS will be available for transfer to any active participant in the fishery.**
- (2) **If a qualified buyer cannot be found then 50% of the 0-20% crew QS offered for sale would have to be gifted to a pool available to qualified buyers and the remaining 50% of the 0-20% could then be offered for sale on the open market to any buyer.**
- (3) **The crew pool of QS would be overseen by RAM. The proceeds from the sale of this QS by auction to the highest qualified bidder would go into a dedicated low interest loan program for crew.**
- (4) **Time frame for the first right of refusal is 1-3 months.**
- (5) **Eligibility of a U.S. citizen to purchase crew shares would be defined by participation in at least one delivery in the subject crab fishery in the last year as evidenced by ADF&G fish ticket or affidavit from the vessel owner.**

Option 3. Protection of traditional and historical crew share percentages with no sunset based on the Canadian Groundfish Development Authority Code of Conduct.

Option 4. A low-interest rate loan program for skipper and crew purchases of QS would be established or made part of the existing loan program for IFQ purchases.

**1.8.2 Overage Provisions:**

- (a) Allowances for overages during last trip:
  - Option 1. 1%
  - Option 2. 3%
  - Option 3. 5%
- (b) Any overage would be deducted from the QS holder's IFQs (during the next season) at:
  - Option 1. same amount as overage
  - Option 2. twice the amount as overage

1.8.3 AFA vessels option: Eliminate AFA harvester sideboard caps on crab species upon implementation.

1.8.4 Discussion in the analysis of season opening dates under an IFQ program and the potential for concurrent seasons and multi-species fishing to reduce bycatch.

**2. Processing Sector Elements**

2.1 Eligible Processors - processors eligible to receive an initial allocation of processing quota shares (PQs) are defined as follows:



- (a) U.S. Corporation or partnership (not individual facilities) that
- (b) processed crab for any crab fishery included in the IFQ program during 1998 or 1999.

2.2 Categories of Processing Quota Shares

2.2.1 Crab fishery categories - processing quota shares may be issued for the following crab fisheries:

Bristol Bay red king  
Brown king (AI Golden king)  
Adak red king  
Dutch Harbor red king  
Pribilof Islands blue king  
St. Matthew blue king  
Pribilof Islands red king  
Opilio (EBS snow crab)  
E AI tanner  
W AI tanner  
Bairdi (EBS tanner)

2.2.2 Regional categories - processing quota shares will be categorized into two regions if regionalization is adopted (see Regionalization Elements for description of regions):

- (a) Northern Region - All areas on the Bering Sea north of 56° 20' N. Latitude
- (b) Southern Region - All areas **on the Bering Sea** south of 56° 20' N. Latitude **and all areas on the Gulf of Alaska**

2.3 Initial allocation of processing quota shares

Option 1. Processing quota shares shall be initially issued to Eligible Processors based on three-year average processing history<sup>2</sup> for each fishery, determined by the buyer of record listed on ADF&G fish tickets, as follows:

- (a) 1997 - 1999 for Bristol Bay red king crab
- (b) 1996 - 1998 for Pribilof red king crab
- (c) 1996 - 1998 for Pribilof blue crab
- (d) 1996 - 1998 for St. Mathew blue crab
- (e) 1997 - 1999 for opilio crab
- (f) Bairdi crab based on 50/50 combination of processing history for BBRKC and opilio
- (g) 1996/97, 1997/98 and 1998/99 seasons for brown king crab
- (h) The council shall/may determine if the 4 species not included are appropriate for PQs, Dutch Harbor red king, E AI tanner, W AI tanner, and Adak red king

Option 2. Processing quota shares shall be initially issued to Eligible Processors based on the processing history for Opilio, BBRKC or brown king crab, determined by the buyer of record listed on ADF&G fish tickets, using the best 4 seasons during the 1996 - 2000 seasons.

**Option 3. If an eligible processor is no longer active in the crab fisheries, the history of the processor will be allocated to open access shares but will retain its regional designation.**

~~Option 3. Processing quota shares shall be initially issued to Eligible Processors based on the 1995-1999 processing history for each fishery, determined by the buyer of record listed on ADF&G fish tickets.~~

~~Suboption: Processor able to choose the best 4 of 5 years.~~

The three-year average shall be the three-year aggregate pounds purchased by each Eligible Processor in a fishery divided by the three-year aggregate pounds purchased by all Eligible Processors in that fishery.

2.4 Percentage of season's GH L or TAC for which IPQs are distributed:

- 2.4.1 IPQs will be issued for a portion of the season's GH L or TAC for each species to provide open access processing as a means to enhance price competition:
- Option 1 100% GH L (or TAC) would be issued as IPQs
  - Option 2 90% GH L (or TAC) would be issues as IPQs - the remaining 10% would be considered open access.
  - Option 3 80% of GH L (or TAC) would be issued as IPQs - the remaining 20% would be considered open access.
  - Option 4 70% of GH L (or TAC) would be issued as IPQs - the remaining 30% would be considered open access.
  - Option 5 0% - no processing shares

2.5 Implementation of the open access processing portion of the fishery:

Catcher vessel QS/IPQs are categorized into Class A and Class B shares. Purchases of crab caught with Class A shares would count against IPQs while purchases of crab caught with Class B shares would not. Crab caught with Class B shares may be purchased by any processor on an open-access basis.

2.6 Transferability of processing shares - provisions for transferability include the following:

- (a) Processing quota shares and IPQs would be freely transferable, including leasing
- (b) IPQs may be used by any facility of the Eligible Processor (without transferring or leasing)
- (c) Processing quota shares and IPQs categorized for one region cannot be transferred to a processor for use in a different region.

2.7 Ownership and use caps - different percentage caps may be chosen for each fishery:

- 2.7.1 Ownership caps
- Option 1. based on maximum share for processors by fishery plus a percentage of 5%, 10% or 15%.
  - Option 2. Ownership cap equal to largest share issued to processor at initial issuance.
  - Option 3. Range of caps from average to maximum with grandfather clause.

**PQS ownership caps should be analyzed using both the individual and collective rule and the threshold ownership rule using 10%, 25%, and 50% minimum ownership standards for inclusion in calculating the cap. PQS ownership caps are at the company level.**

- 2.7.2 Use caps
- Option 1 Annual use caps ranging from 30% - 60% of the GH L (or TAC) by fishery.
  - Option 2. Annual use caps of quota share equal to the largest PQ holder's share in each specific fishery.

2.8 Other Optional Provisions:

- 2.8.1 The crab processing caps enacted by Section 211(c)(2(A) of the AFA would be terminated.

- 2.8.2 Penalties - Eligible Processors must fully utilize their processing quota shares in the season while a fishery is open or lose the amount that is not utilized for one season in the next season.

(a) Distribution of unused quota:

- Option 1. Distributed to other processors proportionally
- Option 2. Distributed to other processors equally
- Option 3. Allocate to open access

**Suboption 1. If QS is reclassified from Class A to Class B:**

- a) **reclassification of Class A QS will be distributed proportionally among all Class A QS holders**

b) reclassification of Class A QS will be distributed equally among all Class A QS holders

c) reclassification of the unused Class A QS to B class

**All three options for reclassification of these temporary B QS should require a regionalization designation to maintain the appropriate regional allocations. Additionally, include discussion of reasons a processor may not use its quota, including physical inability (e.g. plant breakdown); harvesters being unable to deliver when the processor is able to process; bona fide price disagreement; concern over exceeding the processor quota allotment (when there is only a small amount of processor quota remaining); and bonafide dispute over quality of the crab.**

(b) Hardship provisions

2.8.3 Option for use of a private sector managed (non-governmental), binding arbitration process, for failed price negotiations, between fishermen and processors. To the extent that this may be a key design feature in a two pie IFQ program, the analysis should consider the mechanics and applicability to a two pie IFQ program.

Considerations for analysis of binding arbitration:

- Individuals and groups of fishermen holding QS will negotiate independently and separately with individual processing companies holding PQs at any time, before season openings, the earlier the better, to seek best market prices;
- Only required if negotiations fail to achieve acceptable price to both parties;
- Private-sector financed and managed and conducted on a company-by-company basis;
- Individuals, groups and companies that request binding arbitration jointly bear the cost;
- Requires statutory definition, along with harvesting and processing quota shares;
- Harvesting and processing sectors must agree to participate;
- Agreements on price settlements are binding and will likely require an enforcement mechanism (i.e. contracts or statement of agreement between parties);
- Biological seasons, overlap of the biological seasons, crab quality, weather and other considerations need to be contemplated in development of the process framework;
- Need to establish criteria for pool of arbitrators

Elements of the binding arbitration process:

- Requires independent market analyses for specified BSAI king, tanner (Bairdi) and snow (Opilio) crab species by a designated market analyst to be chosen by industry (fishermen and processors);
- Arbitrator, chosen by industry (fishermen and processors) before start of negotiations, sits in on presentation of market analysis but does not sit in on negotiations;
- Need to establish and adhere to deadlines for:
  - (a) Presentation of market analysis to industry (i.e. 8 to 10 weeks prior to season opening)
  - (b) Agreement on date to go to arbitration
    - (1) Pre season
    - (2) In season
  - (c) Agreement on deadline for price settlement
    - (1) Date certain
    - (2) or based on % of GHL caught
- Arbitration will require the parties to submit best price and arbitrator picks one or the other price, but does not split the difference or other options

- Options to establish a price:
  - Option 1. Prices established are a minimum price, based on market analysis, with processors agreeing to pay at least the minimum price (allows variability on prices between companies).
  - Option 2. Formula approach similar to some Bering Sea pollock operations, where the fleets share in the percentage of the sale price of the products. In this case, the arbitrator would decide the formula percentage.
- 3. Regionalization Elements
  - 3.1 Two regions are proposed:
    - (a) Northern Region - All areas on the Bering Sea north of 56° 20' N. Latitude. (This region includes the Pribilof islands and all other Bering Sea Islands lying to the north. The region also includes all communities on Bristol Bay including Port Heiden but excludes Port Moller and all communities lying westward of Port Moller.)
    - (b) Southern Region - All areas **on the Bering Sea** south of 56° 20' N. Latitude **and all areas on the Gulf of Alaska** (This region includes all parts of the Alaska Peninsula westward of and including Port Moller. All of the Aleutian Islands are included in the South Region as are all ports and communities on the Gulf of Alaska.)
  - Suboption: Regional categories for deliveries of Aleutian Islands brown king and Adak red king crab split into a "Western" (west of 174 degrees West longitude) and "Eastern" (east of 174 degrees West) area with an option that up to 50% of W AI brown king crab must be processed in the W AI region.
  - 3.2 Regional categorization of processing and/or harvesting quota shares
    - 3.2.1 Categorization will be based on all historical landings. Periods used to determine regional percentages are as follows (two options):
      - Option 1. 1995 - 1999
      - Option 2. 1997 - 1999
    - 3.2.2 Options for the harvesting sector:
      - Option 1. all CV quota shares are categorized by region
      - Option 2. only Class A CV quota shares are categorized by region
    - 3.2.3 Options for the processor sector:
      - Option 1. Processing quota shares and IPQs are categorized by region
      - Option 2. Regional restrictions apply to deliveries made on an open access basis
    - 3.2.4 Once assigned to a region, processing and/or harvesting quota shares cannot be reassigned to a different region.
  - 3.3 Delivery and processing restrictions - the following provisions apply to the delivery and processing of crab with IFQs or IPQs that are categorized by region:
    - (a) Crab harvested with catcher vessel IFQs categorized for a region must be delivered for processing within the designated region
    - (b) Crab purchased with IPQs categorized for a region must be processed within the designated region.
  - 3.4 **Alternative Regionalization/Community Protection Option: Processing history may leave the region of origin (in which history was established) with permission of the community in which the crab was processed in the base period. The processing QS may change regions with negotiated agreement between processors and the originating communities. These agreements will be filed with the Secretary of Commerce 30 days prior to the quota share leaving the community.**

4. Community Development Allocation (based on existing CDQ program):
  - Option 1. No change from existing program
  - Option 2. Expand existing program to all crab fisheries under this analysis.
  - Option 3. Increase for all species of crab to 10%
  - Option 4. Increase for all species of crab to 12.5%
  - Option 5. For the Aleutian Islands brown king crab fishery, the percentage of resource not utilized (difference between actual catch and GHL) during base period is allocated to the community of Adak.
5. Program Duration and Review
 

The following options apply to all program elements:

  - Option 1. Program review after 2 years and every 3 years thereafter to objectively measure the success of the program, including benefits and impacts to harvesters (including vessel owners, skippers and crew), processors and communities by addressing concerns, goals and objectives identified in the Crab Rationalization problem statement and the Magnuson Stevens Act standards. This review should include analysis of post-rationalization impacts to coastal communities, harvesters and processors in terms of economic impacts and options for mitigating those impacts.
  - Option 2. Program review every 3 years to objectively measure the success of the program, including benefits and impacts to harvesters (including vessel owners, skippers and crew), processors and communities by addressing concerns, goals and objectives identified in the Crab Rationalization problem statement and the Magnuson Stevens Act standards. This review should include analysis of post-rationalization impacts to coastal communities, harvesters and processors in terms of economic impacts and options for mitigating those impacts.
  - Option 3. No program review
  - Option 4. Sunset in 5 or 7 years
6. Cooperative model options:
 

~~6.1 Use a coop model that would have similar elements (qualifying years, ownership caps, skipper provisions, etc) as the IFQ program alternative as appropriate and the following options for comparison with the IFQ model:~~

  - ~~Option 1. AFA-style coop~~
  - ~~Option 2. Dooley-Hall style coop~~

6.1 Coop model with the following elements and options:

**State Voluntary Cooperative:** The purpose of the voluntary cooperative for BSAI crab fisheries is to allow harvesting, processing and community interests to share in the benefits of a rationalized fishery, enhanced by formal cooperation between buyers and sellers. A cooperative structure encourages entities with common and mutual interests to approach those interests through a common perspective.

- 1) Individual harvesting and processing histories are issued to both catcher and processors.  
(Harvesters under Section 1.3.2 a) which meet program qualifications. Processors under Section 2.1, 2.3, and 2.4 (Options 1-4) which meet qualifications of the program).
- 2) Cooperatives may be formed through contractual agreements among fishermen who wish to join into a cooperative with one or more processors holding processor history for one or more species of crab. Fleet consolidation within this cooperative may occur either by internal history leasing and vessel retirement or by history trading within the original cooperative or to a different cooperative.
- 3) There must be at least 2 or more unique vessels/owners to form a coop with a processor. Vessels are not restricted to deliver to a particular plant or processing company.

4) **New processors may enter the fishery by acquiring processor history from an initial issuee. Cooperative formation with a new processor lacking processing history requires the new processor to offer both an adequate payment to the vessel and to the originating plant where the prior processing history resided.**

5) **Custom processing would continue to be allowed within this rationalization proposal.**

6) **Provide an opportunity for communities. Processing history may leave the region of origin (in which history was established) with permission of the community in which the crab was processed in the base period. The processing QS may change regions with negotiated agreement between processors and the originating communities. These agreements will be filed with the Secretary of Commerce 30 days prior to the quota share leaving the community.**

7) Regional Categories:

- Option 1. No regional categories.
- Option 2. Harvester cooperatives' regional categories for deliveries of Bering Sea crab as in paragraph 1.3.4.
- Option 3. Harvester cooperatives' regional categories for deliveries of Aleutian Islands brown king and Adak red king crab split into a "Western" (west of 174 degrees West longitude) and "Eastern" (east of 174 degrees West) area.

8) Duration of coop agreements.

- Option 1. 2 years
- Option 2. 4 years
- Option 3. 6 years

9) Community Development Allocation (under existing CDQ program)

- Option 1. No change from existing program
- Option 2. Expand existing program to all crab fisheries under this analysis.
- Option 3. Increase for all species of crab to 10%
- Option 4. Increase for all species of crab to 12.5%
- Option 5. For the Aleutian Islands brown king crab fishery, the percentage of resource not utilized (difference between actual catch and GHL) during base period is allocated to the community of Adak.

10) Observer requirements. For crab vessels greater than 60' in length, maintain observer coverage at:

- Option 1. Status quo.
- Option 2. 10%
- Option 3. 20%
- Option 4. 30%

11) Length of program:

- Option 1. Sunset in 5 years
- Option 2. Program review to objectively measure the success of the program by addressing concerns identified in the Crab Rationalization problem statement and the Magnuson Stevens Act standards.
  - Suboption 1. Program review after 2 years
  - Suboption 2. Program review every 3 years

12) Option for skipper and crew members: Protection of traditional and historical crew share percentages with no sunset.

13) Catch Accounting - All landings including deadloss will be counted against a vessel's quota. Options for treatment of incidental catch are as follows:

- Option 1. No discards of legal crab will be allowed, and sufficient quota for legal crab must be available.
- Option 2. No discards of "marketable" crab will be allowed for opilio crab and sufficient quota for "marketable" crab must be available. (Legal size for opilio is 3.1 inches, but the industry standard is 4 inches.)
- Option 3. No discards of opilio crab with a carapace of 4 inches or greater in width.
- Option 4. Discards of incidentally caught crab will be allowed. (This option would allow, for example, incidental catch of bairdi crab in a red king crab fishery to be discarded without counting against a vessel's bairdi quota.)

#### ~~6.2.1 Harvest Sector Elements~~

- ~~(a) Eligibility of Cooperative participants as defined in paragraph 1.2 options~~
- ~~(b) Crab fisheries are the same as those listed in paragraph 1.3.1, differentiated by sector as in 1.3.2.~~
- ~~(c) Regional Categories:~~
  - ~~Option 1. No regional categories.~~
  - ~~Option 2. Harvester cooperatives' regional categories for deliveries of Bering Sea crab as in paragraph 1.3.4.~~
  - ~~Option 3. Harvester cooperatives' regional categories for deliveries of Aleutian Islands brown king and Adak red king crab split into a "Western" (west of 174 degrees West longitude) and "Eastern" (east of 174 degrees West) area.~~
- ~~(d) Histories to determine distribution of quota for cooperative participants mirror those under paragraph 1.4.2 "Qualifying Periods." Processor owned vessels may join a coop but may not vote.~~
- ~~(e) Mode of Operation:~~
  - ~~• Catch history of C/P vessels may be delivered inshore or processed by that CP.~~
  - ~~• Catch history of catcher vessels will be delivered to the approved processor from which its catch history was created.~~
  - ~~• If a processor is no longer involved in crab fisheries, then that delivery history will be divided equally or on a pro rata basis among qualifying processors.~~
- ~~(f) Overage provisions. Not allowed for any species/fishery.~~
- ~~(g) Underage provisions. Not allowed for any species/fishery.~~

#### ~~6.2.2. Processor Sector Elements:~~

- ~~(a) Eligible processors as defined under paragraphs 2.1 and 2.3 Option 1, a-g. In addition:~~
  - ~~1. C/P vessels may process their own history and the history of those who made deliveries to them, or may deliver their catch to inshore processors;~~
  - ~~2. inshore processing sector (floaters, mother-ships and shore-based) is restricted to its qualifying processing history and may not convert such history to C/P operations.~~
- ~~(b) To set up Cooperatives, harvesters shall be members of cooperatives with processor(s), to whom they historically delivered crab during the base period. The cooperative shall be deemed formed when 70% of the eligible harvesters and their processor agree to form a coop. A vessel may have historical participation with multiple processors and, thus, may be in multiple coops.~~
  - ~~Option 1. Percentages at 100% of delivery history to historical processor.~~
  - ~~Option 2. Percentages at 90% of delivery history to historical processor.~~
  - ~~Option 3. Percentages at 80% of delivery history to historical processor.~~
  - ~~Option 4. No restriction on delivery (harvester-only coop)~~
- ~~(c) Hardship provisions. Coops shall be allowed to deliver to other processors for hardship reasons (e.g. plant burns down or mothership sinks).~~

6.2.3 ~~Other Options/Considerations:~~

- ~~(a) Calculation of Coop Catching and Processing History. A coop consists of some number of vessels delivering to a processor. Catch histories assigned to each vessel will be determined by analysis of catch and delivery patterns. Processing histories shall be determined in an identical fashion:~~

~~Cumulative history of coop participant (harvester or processor)~~

~~Total history of all qualifying coop participants (harvester or processor)~~

~~(b) Initial Cooperative Formation:~~

~~To form a coop, there must be at least 4, 6, or 10 unique Vessel/owners per coop.~~

~~Option 1. Vessels are assigned to the specific processor where the majority of its qualifying history was delivered.~~

~~Option 2. Vessels are assigned to one or more processors based on their historical pattern of delivery. Cooperating vessels and the processor may trade catching and processing histories within sectors to best suit the initial cooperative formation. Any movement of catching and processing history through sale or lease carries with it the historical characteristics.<sup>3</sup>~~

~~(c) Subsequent Movement Within Cooperatives:~~

~~Option 1. When a vessel shifts history to a different processor, no lease agreement between processors is necessary.~~

~~Option 2. When a vessel shifts history to a different processor, it must be accompanied by a lease agreement between the processors that compensates for movement of history.~~

~~(d) Movement - to leave a coop. Movement between coops must include:~~

~~Option 1. No movement through open access.~~

~~Option 2. Vessels move through open access for 1 year.~~

~~Option 3. Vessels move through open access for 2 years.~~

~~(e) Duration of coop agreements:~~

~~Option 1. 2 years~~

~~Option 2. 4 years~~

~~Option 3. 6 years~~

~~(f) Community Development Allocation (under existing CDQ program)~~

~~Option 1. No change from existing program~~

~~Option 2. Expand existing program to all crab fisheries under this analysis.~~

~~Option 3. Increase for all species of crab to 10%~~

~~Option 4. Increase for all species of crab to 12.5%~~

~~Option 5. For the Aleutian Islands brown king crab fishery, the percentage of resource not utilized (difference between actual catch and GHL) during base period is allocated to the community of Adak.~~

~~(g) Observer requirements. For crab vessels greater than 60' in length, maintain observer coverage at:~~

~~Option 1. Status quo.~~

~~Option 2. 10%~~

~~Option 3. 20%~~

~~Option 4. 30%~~

~~(h) Length of program:~~

<sup>3</sup>Crab harvesters may have made deliveries to one or many different processors to develop their catch histories. They may wish to take these diverse delivery histories and trade them to allow them to deal with only one processor.



- ~~Option 1. Sunset in 5 years~~
- ~~Option 2. Program review to objectively measure the success of the program by addressing concerns identified in the Crab Rationalization problem statement and the Magnuson-Stevens Act standards.~~
  - ~~Suboption 1. Program review after 2 years~~
  - ~~Suboption 2. Program review every 3 years~~
- ~~(i) Option for skipper and crew members. Protection of traditional and historical crew share percentages with no sunset.~~
- ~~(j) Catch Accounting - All landings including deadloss will be counted against a vessel's quota. Options for treatment of incidental catch are as follows:~~
  - ~~Option 1. No discards of legal crab will be allowed, and sufficient quota for legal crab must be available.~~
  - ~~Option 2. No discards of "marketable" crab will be allowed for opilio crab and sufficient quota for "marketable" crab must be available. (Legal size for opilio is 3.1 inches, but the industry standard is 4 inches.)~~
  - ~~Option 3. No discards of opilio crab with a carapace of 4 inches or greater in width.~~
  - ~~Option 4. Discards of incidentally caught crab will be allowed. (This option would allow, for example, incidental catch of bairdi crab in a red king crab fishery to be discarded without counting against a vessel's bairdi quota.)~~

## 6.2 Use a co-op model that would have the following options:

### 1. Formation of Coop

A. There would be one coop formed with each eligible crab processor. Coops would be formed with the processor at the company level, not the plant level. Two or more vessels are sufficient to form a coop. The coop would handle all species of crab.

B. Crab processor eligibility would be determined using the qualifying period identified for allocation of initial IPQs (Eligible Processors, including C/P as revised in 1.7.2.3 option 5. Processors eligible to receive an initial allocation of processing quota shares (PQs) are defined as follows: U.S. Corporation or partnership (not individual facilities) that processed crab for any crab fishery included in the IFQ program during 1998 or 1999.)

C. Each crab vessel is eligible to join only one coop. Which coop the vessel is eligible to join is determined based on which eligible processor that vessel delivered the highest pounds of crab to during the processor qualifying period used for 1.B above.

D. Vessels that join a coop will have their catch history from the vessel qualifying period protected. A vessel that does not elect to join in the coop for which it is eligible remains under an open access fishery.

E. Each vessel's catch history is determined using the formulas identified for calculation of initial quota shares selected under section 1.4 as modified above.

F. A coop agreement would be filed annually with the Secretary of Commerce, after review by the Council, before a coop's catch history would be set aside for their exclusive use. The processor and each boat that is eligible and elects to join the coop must sign the agreement. Only the histories of those boats that sign will be protected.

### 2. Operation of Coop

A. The coop is responsible for allocating fishing quotas for each species of crab to the coop members. Each vessel is entitled to one vote, and decisions will be made by majority vote unless otherwise agreed to by the coop members.

B. The processor with which the coop is formed gets

- i. first right of refusal for all crab harvested by coop members, with coop free to deliver crab to another eligible processor if no agreement is reached; or

**ii. a guaranteed amount of coop crab to be delivered, with the amount ranging from 10% to 100%, the remainder of which can be delivered by the coop to either—**

**I. any eligible processor, or**

**II. any processor, eligible or not (i.e., new entrant allowed).**

**C. If the processor buys the coop crab, it may process the crab itself or may arrange to have it processed by any other crab processor (i.e., the processor acts as broker for coop crab it does not wish to process).**

**D. In the alternative, the processor may elect to have the coop act as its own broker for crab the processor does not wish to buy, with the coop free to either sell the crab to another processor or allow individual vessels to make arrangements on their own.**

**E. Cooperatives may arrange to swap, purchase, or trade deliveries of crab by mutual agreement of the cooperatives concerned.**

### **3. Movement of Vessels Between Coops**

**A. Three alternatives would be analyzed.**

**i. Vessels are free to transfer between coops once each year, with agreement of the coop to which they are moving. Vessel catch history goes to new coop.**

**ii. Vessels may move to a new coop after spending one year in the open access fishery. Coop must agree to entry of new vessel. Vessel catch history is not protected in open access, but is restored upon entering new coop.**

**iii. Vessels may only leave coop with agreement of the processor. Catch history only goes with vessel if processor agrees.**

**B. Vessels that did not join a coop in the first year coops are formed may join the coop of the processor to which they delivered the highest dollar value of crab in the previous year after spending one year in the open access fishery.**

### **4. Regionalization, Etc.**

**A. All other options in the June Draft Council motion regarding regionalization, skipper/crew shares, etc. would be applied to the Lead Fishery Cooperative Model based on the options identified for analysis in those areas.**

### **5. Taxes**

**Require owners of CP vessels to pay a fee equivalent to the tax that would have been imposed had the CP operated in State waters.**

Further, the Council reaffirmed its earlier policy statement that catch history in the crab fisheries beyond December 31, 1998 may not count in future rationalization programs, including a fishery cooperative system.

Finally, the Council requested that the Analysis include to the extent possible a comprehensive qualitative and, where possible, quantitative consideration and examination of the following:

- A. Processor ownership interest in BSAI crab harvesting vessels
- B. CV ownership interest in processors
- C. Processor ownership interest in BSAI crab fishing history
- D. CV ownership interest in BSAI processing history
- E. Foreign ownership interest in the BSAI crab processing sector
- F. Foreign ownership in the BSAI crab harvesting sector

- G. The percentage of Harvester QS that will be allocated to the processor sector as a result of processor sector ownership interest in BSAI crab harvesting vessels and BSAI crab fishing history.
- H. The percentage of processor PQs that will be allocated to the harvesting sector as a result of harvesting sector ownership interests in the BSAI crab processing sector and BSAI crab processing sector history including CPs.
- I. The anti-competitive impacts and economic barriers that may result from the cumulative and combined impacts of Individual Processing Quotas (IPQs) coupled with Regionalization. For example, are the combined impacts and barriers of IPQs and Regionalization different than the individual and respective impacts of IPQs or Regionalization and, if so, to what extent.
- J. The general economic and social impacts and the impacts on free and open competition and markets of IPQs, including the Halverson report and Matulich report on a 2-pie IFQ-type program.
- K. The impacts of IPQs on free markets and vigorous competition in the BSAI crab industry that may result from (1) processor sector ownership interest in BSAI crab harvesting vessels, (2) processor sector ownership interest in BSAI crab fishing history, and (3) the percentage of harvester QS that may be allocated to the processor sector as a result of processor sector ownership interest in BSAI crab vessels and BSAI crab fishing history.
- L. **Staff should provide information describing the issues related to recency and potential proxy QS from other crab fisheries for determining the initial allocations in the EAI tanner, WAI tanner, and EAI (Dutch Harbor) red king crab fisheries. The State of Alaska should be consulted on potential options which can be implemented as trailing amendments.**
- M. **An analysis of the implications of rationalization on BSAI and GOA groundfish and other crab fisheries (including tanneri and Pribilof Islands brown king crab fisheries) shall be included in the analysis.**
- N. **A comprehensive section on environmental consequences (including bycatch, high grading, stock rebuilding) of the rationalization alternatives shall be included in the analysis.**
- O. **An analysis of the impact of the crab vessel buyback on the rationalization alternatives (including the distribution of allocations and caps of harvester and processor shares and the regionalization alternatives) shall be included in the analysis.**
- P. **The analysis shall include a discussion of the cost recovery program and its interaction with the current State fee program.**
- Q. The general impacts of IPQs on free markets and vigorous competition, price mechanisms, costs, distribution of rents and other competitive mechanisms:
  - (1) in the BSAI crab processor sector
  - (2) in the BSAI crab harvester sector.
  - (3) in the BSAI crab industry,
  - (4) in the non-AFA processor sector,
  - (5) in the Kodiak processor sector,
  - (6) in the BSAI and GOA fishing industry,
  - (7) that may result from mergers, acquisitions, combinations and concentrations in the processing sector,
  - (8) that may result from foreign ownership interest in the processing sector.
- R. Restrictions of ownership of Harvester QS by processing entities that have more than 25% foreign ownership interest.
- S. Spillover effects on other fisheries.
- T. Include a discussion of the percent of GHQ purchased by non-eligible processors on an annual basis and the effect on the final QS pool.
- U. Include a conceptual discussion on how co-op management might work in the harvesting and processing sectors and a comparison of IFQs/IPQs, to co-ops including the Dooley-Hall co-op structure in addressing the problem statement.
- V. Conservation benefits and other implications of each component of the program (IFQ, IPQ, Regionalization Co-ops). Present the analysis of these issues in a consolidated section in the EA/RIR.